

LOEB & LOEB LLP  
MARC S. COHEN (SBN 65486)  
mscohen@loeb.com  
DONALD A. MILLER (SBN 228753)  
dmiller@loeb.com  
STEVEN S. ROSENTHAL (SBN 109739)  
srosenthal@loeb.com  
ALICIA M. CLOUGH (SBN 260012)  
aclough@loeb.com  
MARIAH V. S. VOLK (SBN 323068)  
mvolk@loeb.com  
10100 Santa Monica Blvd., Suite 2200  
Los Angeles, CA 90067  
Telephone: 310.282.2000  
Facsimile: 310.282.2200

*Attorneys for the California State Lands Commission*

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
NORTHERN DIVISION

In re:	)	Case No.: 9:19-BK-11573-MB
HVI CAT CANYON, INC.,	)	Assigned to Hon. Martin R. Barash
Debtor.	)	Chapter 11
	)	<b>CALIFORNIA STATE LAND</b>
	)	<b>COMMISSION'S LIMITED</b>
	)	<b>OBJECTION TO THE MOTION OF</b>
	)	<b>THE OFFICIAL COMMITTEE OF</b>
	)	<b>UNSECURED CREDITORS FOR AN</b>
	)	<b>ORDER (I) ESTABLISHING</b>
	)	<b>INFORMATION SHARING</b>
	)	<b>PROCEDURES AND (II) GRANTING</b>
	)	<b>RELATED RELIEF</b>
	)	[Local Bankruptcy Rule 9013-1(f)(1)]
	)	Requested Hearing Date: October 28, 2019
	)	Requested Hearing Time: 10:00 a.m.
	)	Place: 1415 State Street, Courtroom 202
	)	Santa Barbara, CA 93101
	)	Judge: The Honorable Martin R. Barash

**TO THE HONORABLE MARTIN R. BARASH, UNITED STATES BANKRUPTCY  
JUDGE, THE DEBTOR AND DEBTOR IN POSSESSION, THE OFFICE OF THE  
UNITED STATES TRUSTEE, AND ALL PARTIES REQUESTING ELECTRONIC  
NOTICE OF FILING:**

The California State Lands Commission (the “Commission”) hereby submits this limited objection to, and request for a hearing on, the Motion filed by the Official Committee of Unsecured Creditors (the “Committee”) for an Order (I) Establishing Information Sharing Procedures and (II) Granting Related Relief [Docket No. 225] (the “Motion”).<sup>1</sup>

The Commission submits this objection because Local Bankruptcy Rule 9013-1(f)(1) requires any response to an employment application and request for hearing to be he filed with the Court and served on the Committee, its proposed counsel, and the United States Trustee no later than fourteen days from the date of service of this notice. The Information Sharing Procedures Motion was filed on September 20, 2019, meaning that any response must be submitted by October 4, 2019.

The Motion contemplates a series of detailed procedures that would govern creditors’ access to information, essentially appointing the Committee as the gatekeeper to such information. According to the Motion, the Committee purports to seek an order clarifying section 1102(b)(3)(A) of the Bankruptcy Code, which requires the Committee to provide access to information to any creditor that holds a claim of the kind represented by the Committee. However, what the Committee really seeks through the Motion is an order that will authorize the Committee to block and deny access to information.

The Commission understands that the Committee is seeking clarification regarding its obligations under the Code. The Commission also understands the importance of safeguarding

---

<sup>1</sup> The Commission is a major creditor of the debtor in the case of Rincon Island Limited Partnership (“RILP,” currently winding down in the Northern District of TX Bk Court, Case No. 16-33174). The Commission’s claim is \$78,876,162 (as of May 10, 2018). HVI was the general partner of RILP and the entity in control of RILP until the day RILP filed for Chapter 11 relies on August 8, 2016. On that day, RILP’s insiders – presumably to shield the new entity from potential liability associated with RILP – created a new, single-purpose entity called RILP-H LLC to replace RILP’s former general partner (HVI). As the general partner at the time the claims arose against RILP, HVI remains liable for the claims against RILP.

1 confidential information and privileged information. But the Commission respectfully submits  
2 that the relief requested in the Motion would give the Committee inordinate control over access to  
3 information. In particular, the proposed procedures would allow the Committee to deny any entity  
4 access to confidential and/or privileged information without an order of the Court. *See Mot.* at  
5 7:14-16. The current scheduling order entered by the Court contemplates omnibus hearings every  
6 three to four weeks, meaning that a creditor that is denied access to information and seeks the  
7 Court's prompt review would likely have to come to Court on an emergency basis to obtain an  
8 order to authorize access to information. The Commission submits that there might be an  
9 alternative procedure that would require a requesting creditor to sign a confidentiality agreement.

10 In any event, at the very least, the Motion is premature because a significant number of  
11 creditors intend to apply for appointment of a Chapter 11 trustee. With a Chapter 11 trustee in  
12 place, it would be nonsensical and inefficient to have the Committee continue acting in a role of  
13 information watchdog, unilaterally deciding which creditors are able to access information.

14 The Commission simply asks the Court to postpone a decision on the Motion until there  
15 has been a determination on the upcoming request for the appointment of a Chapter 11 trustee.  
16 The Motion should not be rubber-stamped while the case is in a state of transition. The  
17 Committee's role may be significantly altered in the coming weeks with the appointment of a  
18 Chapter 11 trustee.

19 Accordingly, the Commission respectfully requests that the Court set the Motion for  
20 hearing at the Court's next omnibus hearing date: **October 28, 2019 at 10:00 a.m.** If the Motion  
21 is set for hearing on October 28, 2019, the Commission reserves its right to submit a fulsome  
22 response to the Motion in accordance with Local Bankruptcy Rule 9013-1(f)(1).

23  
24 Dated: October 4, 2019

LOEB & LOEB LLP

25  
26 By: /s/ Marc S. Cohen  
27 Marc S. Cohen  
28 *Attorneys for the California State Lands Commission*

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

10100 Santa Monica Blvd., Suite 2200, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled (*specify*): **CALIFORNIA STATE LAND COMMISSION'S LIMITED OBJECTION TO THE MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR AN ORDER (I) ESTABLISHING INFORMATION SHARING PROCEDURES AND (II) GRANTING RELATED RELIEF** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **October 4, 2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Alicia Clough aclough@loeb.com, mnielson@loeb.com, ladocket@loeb.com
- Marc S Cohen mscohen@loeb.com, klyles@loeb.com
- Karl J Fingerhood karl.fingerhood@usdoj.gov, efile\_ees.enrd@usdoj.gov
- Brian D Fittipaldi brian.fittipaldi@usdoj.gov
- Karen L Grant kgrant@silcom.com
- Ira S Greene ira.Greene@lockelord.com
- Matthew C. Heyn Matthew.Heyn@doj.ca.gov, mcheyn@outlook.com
- Brian L Holman b.holman@musickeeler.com
- Razmig Izakelian razmigizakelian@quinnemanuel.com
- Jeannie Kim jkim@friedmanspring.com
- Michael L Moskowitz mlm@weltmosk.com, jg@weltmosk.com; aw@weltmosk.com
- David L Osias dosias@allenmatkins.com, bcrfilings@allenmatkins.com, kdemorest@allenmatkins.com, csandoval@allenmatkins.com
- Darren L Patrick dpatt@omm.com, darren-patrick-1373@ecf.pacerpro.com
- Jeffrey N Pomerantz jpomerantz@pszjlaw.com
- Todd C. Ringstad becky@ringstadlaw.com, arlene@ringstadlaw.com
- Mitchell E Rishe mitchell.rishe@doj.ca.gov
- Daniel A Solitro dsolitro@lockelord.com, ataylor2@lockelord.com
- Ross Spence ross@snowspencelaw.com, janisherrill@snowspencelaw.com; donnasutton@snowspencelaw.com; brittanyDecoteau@snowspencelaw.com
- Christopher D Sullivan csullivan@diamondmccarthy.com, mdomer@diamondmccarthy.com; kmartinez@diamondmccarthy.com
- Jennifer Taylor jtaylor@omm.com
- Salina R Thomas bankruptcy@co.kern.ca.us
- Fred Whitaker lshertzer@cwlawyers.com
- Emily Young pacerteam@gardencitygroup.com, rjacobs@ecf.epiqsystems.com; ECFInbox@epiqsystems.com

☐ Service information continued on attached page

### **2. SERVED BY UNITED STATES MAIL:**

On \_\_\_\_, 2019, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

---

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on October 4, 2019, writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

**Honorable Martin R. Barash  
United States Bankruptcy Judge  
United States Bankruptcy Court  
Central District of California  
21041 Burbank Boulevard, Suite 342 I Courtroom 303  
Woodland Hills, CA**

**Via Overnight Delivery**

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

October 4, 2019  
Date

Keisha Lyles  
Printed Name

/s/ Keisha Lyles  
Signature